

EXHIBIT 3

1
2 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

3 -----x
KATHRYN TOWNSEND GRIFFIN,
4 HELEN MCDONALD, and THE ESTATE
OF CHERRIGALE TOWNSEND,

5
-against-

6 Civil Action No.:
1:17-CV-05221-RJS/GRIFFIN

7
8 EDWARD CHRISTOPHER SHEERAN,
p/k/a ED SHEERAN, ATLANTIC
9 RECORDING CORPORATION, d/b/a
ATLANTIC RECORDS, SONY/ATV
10 MUSIC PUBLISHING LLC and
WARNER MUSIC GROUP
11 CORPORATION, d/b/a ASYLUM
RECORDS,

12 Defendants.

13 -----x

14 May 30, 2018
15 10:02 a.m.

16
17 Videotaped Deposition of ALEXANDER STEWART,
18 taken by Defendants, pursuant to Notice, held at the
19 law offices of Pryor Cashman, LLP, 7 Times Square,
20 New York, New York, before Judith Castore, a
21 Certified Livenote Reporter and Notary Public of the
22 State of New York.

1 STEWART

2 A I'll have an opportunity.

3 Q So generally speaking when
4 you're asked to compare two -- let me
5 take a step back.

6 Is it safe to say that the
7 vast majority of what you're asked to
8 do as an expert is to compare two
9 pieces of music as opposed to other
10 types of copyrightable works?

11 A Oh, yes, yes.

12 Q And I'm focusing now on a
13 situation where you're being asked to
14 compare two musical compositions.

15 Okay?

16 A Yes.

17 Q As opposed to -- you
18 understand the difference between a
19 music composition and a sound recording
20 of that composition, correct?

21 A Yes.

22 Q So I'm distinguishing here
23 between those two things.

24 And just so that the record
25 is clear, what is your understanding

1 STEWART

2 about the difference between a musical
3 composition and a sound recording?

4 A Well, the sound recording --
5 first of all, they're two separate
6 copyrights. The sound recording is the
7 performance or the embodiment of the
8 composition.

9 Q So focusing on just the
10 musical composition. Do you have a
11 particular methodology in general when
12 you're asked to compare two musical
13 compositions?

14 A Yes. First I listen to both
15 works in their entirety with -- and
16 give a very close listening trying to
17 hear parts that sound similar so that I
18 can zero in on them, and it may be
19 repeated listening to get to that
20 point. And then I transcribe or put
21 into musical notation or look for
22 representations of that music that may
23 have already been done in the form of
24 sheet music and so forth. And check
25 that for accuracy. But that's the

1 STEWART

2 important step is to put -- have some
3 form of musical notation to compare so
4 you can actually look at the notes and
5 the musical expression.

6 Q So I'm going to just take it
7 step-by-step, if you don't mind.

8 So is it correct that
9 typically the first thing you do in
10 your analysis is listen to the two
11 songs at issue?

12 A Yes.

13 Q And when you're listening to
14 the songs at issue, what are you
15 listening to?

16 A I don't understand what
17 you're asking.

18 Q Apparently neither did he.
19 What form does the music take
20 that you're listening to? If you're
21 trying to compare two musical
22 compositions, a musical composition in
23 and of itself might not be capable of
24 being listened to, correct?

25 A Good point. Yeah. I mean,

1 STEWART

2 MR. FRANK: Objection.

3 Predicate, form.

4 Go ahead.

5 A For every song that's been
6 written in the last 40 years, no.
7 Every single song, no. But for the
8 vast majority in the popular music
9 idiom, yes.

10 Q When you are asked generally
11 speaking to analyze two pieces of
12 music, do you make that assumption when
13 you are analyzing the songs?

14 A Make what assumption?

15 Q That was is embodied in the
16 commercially released sound recording
17 is in fact the musical composition?

18 A That has been the standard
19 operating procedure of every
20 musicologist in this field that I know
21 of for all the time I've been involved
22 doing this. And this emphasis on the
23 deposit copy is something that is new,
24 and I think that's what you are leading
25 toward, and that has not been the

1 STEWART

2 standard practice. So I -- if you want
3 to cut to the chase, I think that's
4 what you're trying to imply here.

5 You know, you're shaking your
6 head. So what do you want -- what are
7 you asking me then?

8 Q The way it works is I ask
9 questions and you give me answers. And
10 if you don't understand my questions,
11 I'll rephrase it, but --

12 A Can I just try to explain --

13 Q There's no question pending
14 right now.

15 A Sure.

16 Q Generally speaking, when you
17 are asked to analyze two songs, are you
18 assuming that the commercially released
19 sound recording that you are given
20 accurately reflects the musical
21 composition that you are being asked to
22 analyze?

23 A Because in almost every
24 instance this recording has been the
25 first embodiment that -- of this

1 STEWART

2 particular composition or has been
3 released with the understanding that it
4 embodies the composition, my answer
5 would be yes. You know, ontologically
6 the recording almost always precedes
7 any other form that the composition
8 might be represented in.

9 Q But hypothetically speaking,
10 it is possible that a musical
11 composition could be written prior to
12 and outside of the studio, correct?

13 A Yes.

14 Q Do you compose music?

15 A Not much.

16 Q Have you ever composed music?

17 A Yes.

18 Q And what's your process for
19 composing music?

20 A I've generally worked in the
21 studio, but I've also used the old
22 fashioned method of paper and pencil.

23 Q And when you're using the old
24 fashion method of paper and pencil, can
25 you explain to me what your process was

1 STEWART

2 transcription of the entire musical
3 composition of Let's Get It On?

4 A Yes.

5 MS. FARKAS: We would ask
6 that those be produced.

7 Q Right.

8 And the transcription that
9 I'm asking about are ones that you
10 actually prepared.

11 A Yes.

12 Q So your answer remains the
13 same?

14 A Yes.

15 Q Other than the two
16 commercially released sound recordings
17 that are identified in your report, and
18 the two YouTube video that are
19 identified in your report, is there
20 anything else that you reviewed in
21 order to create your June 2015 written
22 report?

23 A Yes.

24 Q And what is that?

25 A I reviewed another version of

1 STEWART

2 Let's Get It On, the, I guess, extended
3 version. I also looked at other
4 performances of Mr. Sheeran that were
5 on YouTube, there were quite a few.
6 Some of which the last time I looked
7 had been taken down.

8 Let's see. Of course I
9 bought the sheet music for both songs.
10 And I think I attached them to my
11 report. And at some point I looked at
12 the deposit copy, too, and I can't
13 remember the exact timing on that. The
14 deposit copy for Let's Get It On.

15 Q Is it your testimony that you
16 reviewed the deposit copy for Let's Get
17 It On before you wrote your June 2015
18 report?

19 A I don't recall.

20 Q Where did you get the deposit
21 copy from?

22 A From counsel.

23 Q But you didn't analyze the
24 deposit copy in your June 2015 report
25 or your December 2017 report; is that

1 STEWART

2 correct?

3 A It informed my work to some
4 extent. But, no, I didn't include it
5 explicitly in the analysis.

6 Q So your testimony is that you
7 did review the deposit copy before you
8 rendered your June 2015 report?

9 A No. I don't recall the
10 timing.

11 Q So you don't know whether it
12 informed that?

13 A Yeah, that's a good call. I
14 don't recall if it informed that or
15 not.

16 Q And do you recall whether you
17 reviewed the deposit copy before you
18 rendered your December 2017 report?

19 A Yes, I did.

20 Q And your testimony is that it
21 informed your opinion in your
22 December 2017 report?

23 A I found that it supported
24 everything in my report.

25 Q But in your December 2017

1 STEWART

2 Sheet Music Plus, it's not that one.

3 When you Google sheet music it's the
4 other name that comes up.

5 Q Well, we can leave a blank in
6 the transcript and you can fill it in.

7 INSERT: _____

8 A I would be happy to provide
9 that to you.

10 Q To figure out the name.

11 When you are transcribing
12 melody, and when you did so in this
13 case, how do you typically depict
14 melody?

15 A The same way I would depict
16 any musical expression, with notes and
17 rhythms and -- you know -- I mean,
18 notes imply rhythmic placement as well
19 as pitch, so...

20 Q And in order to accurately
21 transcribe and analyze the melody of a
22 particular song you have to notate each
23 note the melody, correct?

24 A Yes.

25 Q And you have to notate the

1 STEWART

2 rhythmic duration of each note,
3 correct?

4 A Yes.

5 Q And it's important that you
6 do that accurately, correct?

7 A Yes.

8 Q So when you are transcribing,
9 what exactly are you transcribing, can
10 you give me a sense? In this case what
11 exactly did you transcribe in addition
12 to the melody?

13 A Well, as expressed in the
14 vocals, for example, when you refer to
15 the melody, right? So I transcribed
16 the base parts, the drum parts, the
17 chords. I think that's what I
18 remember.

19 Q And you're making those
20 transcriptions from the commercially
21 released sound recordings?

22 A Yes. And in one instance
23 from this performance of Ed Sheeran.

24 Q The YouTube video?

25 A Yeah.

1 STEWART

2 purposes which is standard
3 musicological procedure.

4 Q And what is the basic chord
5 progression in Let's Get It On deposit
6 copy?

7 A For the verses and choruses
8 it is in the key of E-flat. Should I
9 give it to you or in the key of D or
10 using Roman numerals?

11 Q No, Roman numerals.

12 A One with the capital I
13 meaning major, three with three small
14 Is meaning minor, and then IV major, V
15 major. So I, III, IV, V.

16 Q And would I be correct that
17 the V is a V major VII?

18 A No, it's not.

19 Q So it's your testimony that
20 the deposit copy, the last chord in the
21 chord progression is not a V major VII?

22 A It would be my testimony,
23 yes.

24 Q Would you agree that the
25 basic chord progression in the Let's

1 STEWART

2 Get It On deposit copy and Thinking Out
3 Loud are not identical?

4 A They are extremely similar
5 but they are not identical.

6 Q Looking at the deposit copy,
7 the fourth chord depicted there, what
8 do you see written there?

9 A B-flat VII.

10 Q So is that not a V major VII?

11 A It's not.

12 Q What is it?

13 A It's a V dominant VII.

14 Q V dominant VII?

15 A Yes.

16 Q How would you actually notate
17 that in your report Roman Numeral wise?

18 A V-VII. Roman Numeral 5.

19 Q Roman numeral 5 like a V --
20 an upper case V with a VII.

21 Do you agree that the basic
22 chord progression in the Let's Get It
23 On deposit copy is not original to
24 Let's Get It On?

25 A These four chords have been

1 STEWART

2 used in other compositions prior to
3 Let's Get It On.

4 Q And would you agree that it's
5 a relatively common chord progression
6 that predates Let's Get It On?

7 A I wouldn't say it's that
8 common.

9 Q How common would you say it
10 is?

11 A Well, there were -- out of
12 hundreds of thousands of songs there
13 were a handful who used it. I can't
14 really -- I mean it was more than -- a
15 lot more than one. More than one and
16 certainly not --

17 Q Hundreds?

18 A I don't think so.

19 Q Dozens?

20 A I think Dr. Ferrara has done
21 a pretty good job of trying to find
22 every song that has a progression
23 that's even remotely similar and he's
24 come up with how many.

25 Q What makes you think he's

1 STEWART

2 done a pretty good job of finding every
3 song that has that progression?

4 A Well, because this is what he
5 kind of always does is try to bury us
6 with so-called prior art that he says
7 is similar.

8 Q Well, how many pieces of
9 prior art do you think are enough to
10 prove that it's not original to Let's
11 Get It On?

12 A Well, I think I already said
13 it's not original so I don't think we
14 have any issue there. I said that
15 other songs have this chord
16 progression.

17 Q So can I turn your attention
18 to Visual Exhibit E to Dr. Ferrara's
19 report?

20 A Visual Exhibit E.

21 Yes.

22 Q And do you see that this is
23 an excerpt from a guitar method book
24 called Guitar for Advanced Beginners.

25 Do you see that?

1 STEWART

2 A It's very difficult to read.

3 But, yes, it seems to say that.

4 Q If you turn the page twice
5 you can see that there's an excerpt
6 from Page 84 of this Guitar Book for
7 Advanced Beginners?

8 A Yes.

9 Q And do you see about midway
10 down -- the bottom half of the page
11 references the chord progression that
12 is at issue here.

13 Do you see that? The
14 I-III-IV-V chord progression?

15 A Yes.

16 Q And do you see the sentence
17 right above that that says by the
18 way -- well, hold on. The start of
19 that section says, we first played the
20 I-III-IV-V progression in Class VII.
21 And then I'm skipping over the next
22 sentence, it says it shows up in songs
23 like "If I Had A Hammer" by Pete Seeger
24 and Lee Hays, "Cruel to be Kind" by
25 Nick Lowe, "Ziggy Stardust" by David

1 STEWART

2 Bowe, "Good Little Girl/Bad Little Boy"
3 from Adventure Time, "Stuck on You" by
4 Lionel Richie, "Live and Let Die" by
5 the Wings, "Fun, Fun, Fun" by the Beach
6 Boys, "Crocodile Rock" by Elton John
7 and "Let's Get It On" by Marvin Gaye.

8 Do you see that?

9 A Yes.

10 Q Do you disagree with any of
11 those? Do you disagree with anything
12 in that sentence?

13 A I can't really comment on
14 that because I haven't listened to all
15 of these songs to confirm that.

16 Q And it says, by the which
17 even though Let's Get It On was
18 recorded in 1973 which is after dozens
19 of other I-III-IV-V songs were
20 recorded, I firmly believe that Marvin
21 Gaye did not plagiarize this song - he
22 was simply writing a song using a
23 common progression just like every
24 other professional songwriter does.

25 Do you see that sentence?

1 STEWART

2 A Yes.

3 Q Do you agree?

4 A First of all --

5 MR. FRANK: Which part of the
6 sentence are you asking him if he
7 agrees with? There's several
8 propositions. Whether Marvin Gaye
9 plagiarized Let's Get It On or
10 whether it's common progression
11 and every other professional
12 songwriter uses it?

13 Q Is there anything in that
14 sentence that you disagree with?

15 A Well, just on your previous
16 sentence that you read I would like to
17 say that some of these songs that are
18 listed postdate Let's Get It On, so
19 that needs to be pointed out. No, I
20 have not listened to all of them. But
21 in terms of the sentence you just read,
22 I don't think I have a problem with
23 that. I think what's unique about what
24 Marvin Gaye did was the way that he
25 expressed it -- this chord progression

1 STEWART

2 in a distinctive way. So this case is
3 not really just about abstract four
4 chords, it's about how these four
5 chords were expressed in this
6 composition.

7 Q Well, but if the -- if the
8 existence of this chord progression
9 were the only similarity that you found
10 between these two songs, would your
11 conclusion still be that the similarity
12 can only be the result of copying?

13 MR. FRANK: Objection,
14 predicate.

15 Go ahead.

16 A Could you repeat that?

17 Q Sure.

18 If the existence of this
19 similar chord progression were the only
20 similarity between these two
21 compositions, would your conclusion
22 still be that the similarity can only
23 be the result of copying from Let's Get
24 It On?

25 A Well, if it were just this

1 STEWART

2 chord progression in the abstract that
3 were the only thing in common; yeah, it
4 would not -- what was your phrase?

5 Q Well, I'm use your phrase
6 from your report which is that these
7 similarities can only be the result of
8 copying Let's Get It On?

9 A That would not be my
10 conclusion if that were the only thing.
11 And that's, again, the chord
12 progression in the abstract, just these
13 Roman numerals, not the way that it's
14 actually expressed in terms of
15 rhythmically and all the other details.

16 MS. FARKAS: Why don't --
17 it's probably a good time for a
18 break.

19 VIDEOGRAPHER: The time is
20 12:50. This is the end of Video
21 2. We're off the record.

22 (Whereupon, a lunch recess
23 was taken at 12:50 p.m.)
24
25

1 STEWART

2 A I think I was.

3 Q When you send invoices are
4 they itemized in any way?

5 A I don't recall.

6 Q Do you typically send
7 itemized invoices?

8 A Yes. I mean, itemized in
9 terms of what kinds of work I was
10 doing, what the tasks were that I was
11 accomplishing.

12 Q What are some of the
13 categories of tasks that you would
14 itemize on your invoices?

15 A Transcription analysis,
16 writing the report, those kinds of
17 things.

18 Q I think you testified earlier
19 that the fourth chord on the Let's Get
20 It On deposit copy is a V 7 chord,
21 correct?

22 A Yes.

23 Q And I'd like to show you
24 what's been marked as Stewart
25 Exhibit 6.

1 STEWART

2 (Sheet music to Let's Get It
3 On, was marked Stewart Exhibit 6,
4 for identification, as of this
5 date.)

6 Q Can you identify this
7 document for us?

8 A It appears to be the sheet
9 music to Let's Get It On.

10 Q And if you look at the bottom
11 left corner of really any of the pages
12 other than the cover page, do you see
13 it says musicnotes.com at the bottom
14 left?

15 A Yes.

16 Q Does that refresh your
17 recollection as to whether that's a
18 site from which you get sheet music?

19 A That's the sight I generally
20 go to, yes.

21 Q Am I correct that the fourth
22 chord noted on the published sheet
23 music for Let's Get It On is a V 7
24 chord?

25 A Yes.

1 STEWART

2 this sentence?

3 A In terms of the combination
4 of these elements, yes.

5 Q And what led you to that
6 conclusion other than the transcription
7 of the two songs and the comparison of
8 them that we've been talking about
9 today, anything else?

10 A The absence of prior art that
11 has the degree of similarity that these
12 two songs held.

13 Q Can you tell us about whether
14 you conducted any search for prior art
15 in this case prior to -- let's start
16 with prior to issuing your June 2015
17 report?

18 A Yes.

19 Q And do you have a particular
20 process that you use when searching for
21 prior art?

22 A Well, believe it or not one
23 very useful method has been to ask
24 musician friends of mine who have
25 extensive knowledge of repertoires if

1 STEWART

2 they know of other songs like these.

3 And then if they recommend
4 that I -- if they say oh, yes, there's
5 this, this or this, then they warrant
6 closer looks in terms of listening to
7 the tracks to see how similar they are.
8 And of course we can always count on
9 Dr. Ferrara to come up with many, many
10 examples of what he claims are examples
11 of prior art that are similar, as well.
12 So that's at a later stage than what
13 you're talking about.

14 Q That's correct.

15 So in this instance, do you
16 recall whether you asked other
17 musicians about prior art?

18 A Yes, I think I did.

19 Q And who did you ask?

20 A Colleagues of mine in the
21 music department, guitarists. Just
22 musicians who I work with. I can't
23 give you -- this is -- we're talking
24 about a number of years ago. But, I
25 mean, I still am out performing and

1 STEWART

2 doing gigs so I might ask somebody else
3 who's on the gig with me.

4 Q And what exactly -- do you
5 recall what exactly you asked them in
6 this instance?

7 A Yeah, I would have asked
8 them, you know, you have two songs here
9 that have -- you know, I might ask them
10 do you know of other songs that have
11 this I-III-IV-V progression. And that
12 would be a go way to begin the
13 comparison to see if the way that the
14 I-III-IV-V progression as expressed in
15 the different songs is the same as it
16 is in these songs.

17 Q Do you recall that happening
18 because you said you I might ask? Do
19 you recall that you actually did that?

20 A Yeah, I do recall. But I
21 don't recall exactly whom I asked at
22 this point in time. But, yeah, this
23 would be -- well, given it sounds like
24 I'm saying, a conditional would be --
25 but this is my standard practice when

1 STEWART

2 I'm working on something without kind
3 of tipping my hand in terms of what the
4 situation is, you know, in terms of any
5 legal situation. But to just ask
6 somebody on a gig; hey, man, do you
7 know other songs with at I-III-IV-V
8 progression. And they might say, yeah,
9 Get Off My Cloud has a similar
10 progression to that. And so then I
11 would check that out. But other songs
12 I would think of on my own. But my
13 research on prior art would be happy
14 to -- to acknowledge that Dr. Ferrara
15 obviously has spent a lot of time on
16 that. So I've looked very carefully at
17 all of the examples that he's
18 proffered, as well.

19 Q But I want to focus on what
20 you did independently of Dr. Ferrara.
21 And I want to focus on what specific
22 recollection you have of what you
23 actually did prior to rendering your
24 report.

25 A Yeah. So prior to writing

1 STEWART

2 that line that I just read that you
3 sited in my report.

4 Q Well --

5 A At that point in time of
6 course I'd already seen an extensive
7 list of songs that Dr. Ferrara had
8 produced. And, in fact, he even
9 produced a list of songs in his report
10 that is Visual Exhibit G that I was
11 provided really early on in the case.
12 So there was stuff to work with there
13 already in terms of making the
14 comparison. And, you know, it's a very
15 time consuming thing because I have to
16 transcribe those examples, too, in
17 order to compare them the same way that
18 I compared Let's Get It On and Thinking
19 Out Loud.

20 Q So is it fair to say that you
21 typically rely upon the defendant's
22 prior art searches for your prior art
23 search, is that a large part of your
24 prior art search?

25 A I don't know if it's a large

1 STEWART

2 part, but it's part of it, yes.

3 Q So let's talk about the other
4 parts in this instance.

5 Sitting here today, what do
6 you specifically recall that you did on
7 your own to search for prior art? You
8 mentioned that you may have spoken with
9 musicians.

10 Do you recall actually
11 speaking to any musicians about prior
12 art in this case?

13 A Yes.

14 Q Who did you speak with?

15 A I can't remember who
16 specifically.

17 Q Then how do you know you
18 spoke with anyone?

19 A Because I remember doing it.
20 But, you know, let's back up for a
21 second because you're covering a bit of
22 ground that we already covered at the
23 beginning, too. In which I said my
24 primary source is my own knowledge of
25 repertoire and based on 40 or 50 years

1

STEWART

2

as a performer doing covers of these

3

songs and also as a researcher and

4

scholar in popular music. So, you

5

know, I can -- when somebody provides

6

me with two songs right off the bat I'm

7

going to -- if there's something else

8

that was really similar, I'm going

9

to -- that is in the repertoire that

10

I'm familiar with, I'm going to know

11

right away that, as I mentioned

12

earlier, maybe there is not anything

13

worth pursuing in this matter because

14

it's something that is present in prior

15

art.

16

Q Okay.

17

A So that happens frequently in

18

terms of just relying on my -- my

19

current knowledge.

20

Q Sure. Understood.

21

But, again, you keep -- and I

22

don't think you're doing it

23

intentionally, but you keep drifting

24

off into the general. And I'm really

25

focusing on what did you do in this

1 STEWART

2 case.

3 A What you --

4 Q So in terms of your own
5 musical knowledge.

6 So you were presented with a
7 potential claim, you were asked to
8 evaluate it and you were -- you had
9 some reaction to it based on your own
10 knowledge and experience with music; is
11 that correct?

12 A Yes.

13 Q And do you recall whether any
14 songs came to mind to you as possible
15 sources of prior art whether or not you
16 ultimately rejected them?

17 A Yeah, anything that I thought
18 of I would hear that it was
19 rhythmically different, that the metric
20 placement of these -- these -- of this
21 expression was different.

22 Q Do you recall any songs,
23 sitting here today, that came to mind
24 from your own knowledge?

25 A From three years ago, no.

1 STEWART

2 Q Do you recall how many songs
3 came to mind?

4 A Well, it's sort of like -- in
5 some ways the process doesn't really
6 take that long because the music is in
7 my memory. So it's -- you asked
8 earlier like how much time do you spend
9 doing this? It might take a matter of
10 minutes for me to think of something
11 that's very similar and it doesn't even
12 take any more work in terms of it
13 because I can hear it in my head that
14 it's going to eliminate the possibility
15 of this being pursued further and
16 then -- so it's -- this is why it's
17 sort of difficult to answer your
18 question.

19 Q Do you recall transcribing
20 any portion of any song that came to
21 mind from your own knowledge of music
22 in this case?

23 A I can't remember, no.

24 Q Do you recall whether any of
25 the musicians that you may have

1 STEWART

2 lot different guitar students because
3 most people come to him don't
4 necessarily want to learn jazz. So, I
5 mean, like every guitar teacher I know
6 they've had to teach across a wide
7 spectrum of repertoire and genres.

8 Q So other than -- I believe
9 you said you asked somewhere around
10 three to five or so musicians?

11 A Um-hum.

12 Q You don't recall transcribing
13 any of the songs that they suggested to
14 you; is that correct?

15 A That's correct. I don't
16 recall.

17 Q And the other source of prior
18 art that you consulted prior to
19 rendering an opinion was your own --
20 your own historical knowledge of music?

21 A Encyclopedia.

22 Q I was going to say. Okay. I
23 fell like you used it, I'm not adopting
24 it.

25 A No, please do. But --

1 STEWART

2 Q I don't think that's
3 possible.

4 A Yeah. And then -- but let's
5 not discount the fact that I received a
6 list of songs from Dr. Ferrara early
7 on, and I can't tell you precisely
8 when. But any time that he provides
9 something or something comes to me by
10 that way I feel obligated to, you know,
11 investigate it thoroughly and to deal
12 with it fairly.

13 Q And would it be safe to say
14 that you were primarily focused on
15 songs that had the combination of the
16 drum pattern and the chord progression
17 that you've identified?

18 A And the baseline.

19 Q And the baseline.

20 A Yes.

21 Q And it was that combination
22 that you were looking for?

23 A Primarily.

24 Q And what was the point at
25 which you had done enough to conclude